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IN THE DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT

IN AND FOR DUCHESNE COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL
DETERMINATION OF ALL THE RIGHTS
TO THE USE OF WATER, BOTH
SURFACE AND UNDERGROUND,
WITHIN THE DRAINAGE AREA OF THE
UINTA BASIN IN UTAH

MOTION OF STATE ENGINEER FOR
ORDER OF DISTRIBUTION

Civil No. 56080056CV

JUDGE JOHN R. ANDERSON

The State Engineer, by and through counsel, hereby submits this Motion of State Engineer for Order of Distribution for the Duchesne and Strawberry River system.

During years when the water in the Duchesne and Strawberry River system has been insufficient to supply existing water rights, it has been distributed pursuant to orders from this Court. These orders allow the interim distribution of water in this combined river system during the pendency of the Uinta Basin General Adjudication. They do not prejudice the claims of the parties in any subsequent proceedings in the general adjudication.

In the general adjudication, a number of issues related to the water right claims of the Ute Indian Tribe remain to be resolved. Years ago, the State of Utah and the Ute Indian Tribe began negotiating a compact that would quantify the Tribe's water rights and resolve the outstanding issues. In 1980, the Utah Legislature ratified a proposed compact. In approximately 1992, the State and the Tribe negotiated a revised compact. The United States Congress has ratified the revised compact by legislation. The Tribe, however, has not yet ratified the revised compact by referendum election, and pending the Tribe's ratification, the State and the Tribe are continuing to negotiate the last few issues of concern to the Tribal members. After ratification by the Ute Tribe, the Utah Legislature will consider the revised compact for re-ratification.

The flows in the drainage areas of the Duchesne and Strawberry Rivers in 1982, 1983, 1984, 1986, 1997, 1998, and 1999 were sufficient to satisfy water rights in the basin without a distribution schedule. In 1995, even though the Court issued a distribution order, there was enough late spring precipitation and cool weather to maintain river flows and the River Commissioner did not need to impose the delivery schedule. This year, after reviewing the snow pack information and consulting with the Duchesne River Commissioner, the State Engineer has concluded that it will be necessary to regulate the system under a distribution order during the 2003 irrigation season.

Prior to 1989, all water users along the respective river systems received water according to a single, uniform distribution schedule that was prepared by the State Engineer and adopted by

the Court. After 1989, the State Engineer modified the distribution order, based on discussions with the water users and new technical information. This year, the State Engineer has again slightly modified the distribution schedule after discussions with the water users. Those modifications are explained in the Distribution Schedule, attached as Exhibit A. The Distribution Schedule provides that the River Commissioner can make a determination, based on current climatic conditions and historical water needs, to administer Zone I under either Schedule A or Schedule B, and to administer Zone II under either Schedule B or Schedule C. Zone III will be administered under Schedule C as in previous years. These modifications will allow the River Commissioner and the water users to begin regulated distribution of water either earlier or later, depending on the seasonal weather outlook and the water needs within each zone.

Based on the Court's ruling on the 1990 Interim Distribution Order and the State Engineer's technical analysis, the State Engineer has concluded that a four (4) acre-feet per acre irrigation duty is reasonable and proper. The State Engineer therefore recommends that the Court adopt an irrigation duty of four (4) acre-feet per acre. This is the same irrigation duty the Court has adopted since at least 1980.

In 1990 and 1991, the State Engineer held discussions with representatives of the United States Bureau of Reclamation and the Central Utah Water Conservancy District (CUWCD) regarding the use of Starvation Reservoir as a regulating device for water users with direct-flow water rights from the streams. Under arrangements with the CUWCD, water users would be

allowed to retain water in Starvation Reservoir on a short-term basis when they were cutting hay or harvesting crops. This arrangement has allowed water users to use their water more efficiently, and so far has worked fairly smoothly. The State Engineer requests that the Court allow for such practices by order, with the conditions that the River Commissioner administer such storage and distribution, that other water rights are not impaired, and that the water users have adequate measuring devices as approved by the State Engineer.

The State Engineer presented the Proposed Distribution Order for the 2003 irrigation season to representatives of water users of the Duchesne River and Strawberry River systems at a meeting held in February 2003 in Duchesne, Utah. The representatives of the water users agreed with and support the Order of Distribution and the Distribution Schedule for 2003.

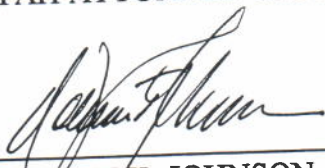
In past meetings with the Uintah Basin Irrigation Company, members have expressed concern that the continued entry of the interim distribution orders may be the basis for some form of estoppel to their claim for a higher duty of water, even though the orders state that they are without prejudice to such claims. The State Engineer emphasizes that nothing in this or in past orders is intended to prejudice the eventual claims of any party in the general adjudication.

The State Engineer respectfully moves this Court for an Order of Distribution adopting the attached Distribution Schedule to govern distribution of water on the Duchesne River and Strawberry River systems for the 2003 irrigation season, and directing the Duchesne River Commissioner to distribute the waters of said system according to the schedule.

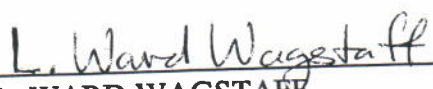
The State Engineer will serve copies of this Motion on all interested parties in order to allow them to submit comments or objections prior to entry of the Order of Distribution.

Dated this 21st day of March, 2003.

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**DISTRIBUTION SCHEDULE
DUCHESNE – STRAWBERRY RIVER**

DESCRIPTIONS OF DISTRIBUTION ZONES

For the purposes of this Distribution Schedule, the Duchesne – Strawberry River System is divided into three zones which are described as follows:

ZONE I

Zone I includes the lands irrigated between the headwaters of the Duchesne River and the bridge (locally known as the Williams Bridge) on State Route 35 just above the confluence of Rock Creek with the Duchesne River. Zone I also includes the lands irrigated between the headwaters of Red Creek and its confluence with the Strawberry River, excluding Currant Creek.

ZONE II

Zone II includes the lands irrigated between the bridge (locally known as Williams Bridge) on State Route 35 just above the confluence of Rock Creek and the Duchesne River and down to the confluence of the Strawberry River with the Duchesne River.

ZONE III

Zone III includes all the lands irrigated below the confluence of the Strawberry River with the Duchesne River including Indian Canyon.

DELIVERY SCHEDULES

ZONE I

Either Delivery Schedule A or Delivery Schedule B (both shown below) may be used for the distribution of water in Zone I. The Duchesne River Commissioner will determine which schedule should be used for the current year depending upon the climatic conditions existing in Zone I.

ZONE II

Either Delivery Schedule B or Delivery Schedule C (both shown below) may be used for the distribution of water in Zone II. The Duchesne River Commissioner will determine which schedule should be used for the current year depending upon the climatic conditions existing in Zone II.

III

Delivery Schedule C (shown below) shall be used for the distribution of water in Zone III.

DELIVERY SCHEDULE "A"

May 1 – October 15, 4.0 Acre-Feet per Acre

<u>PERIOD</u>			<u>DUTY</u>		<u>DELIVERY</u>	
Date (1)		No. of Days (2)	CFS/Acres (3)	AF/Day (4)	AF/Period (5)	Accum AF (6)
May	1-15	15	1/100	0.01983	0.298	0.30
May	16-31	16	1/60	0.03306	0.529	0.83
June	1-15	15	1/60	0.03306	0.496	1.32
June	16-30	15	1/65	0.03051	0.458	1.78
July	1-15	15	1/70	0.02834	0.425	2.21
July	15-31	16	1/80	0.02479	0.397	2.60
Aug.	1-15	15	1/80	0.02479	0.372	2.98
Aug.	16-31	16	1/85	0.02333	0.373	3.35
Sept.	1-15	15	1/100	0.01983	0.298	3.65
Sept.	16-30	15	1/150	0.01322	0.198	3.84
Oct.	1-15	15	1/200	0.00991	0.149	3.99

DELIVERY SCHEDULE "B"

April 20 – October 15, 4.0 Acre-Feet per Acre

<u>PERIOD</u>			<u>DUTY</u>		<u>DELIVERY</u>	
Date (1)		No. of Days (2)	CFS/Acres (3)	AF/Day (4)	AF/Period (5)	Accum AF (6)
Apr.	20-30	11	1/145	0.01368	0.150	0.15
May	1-15	15	1/100	0.01983	0.298	0.45
May	16-31	16	1/85	0.02333	0.373	0.82
June	1-15	15	1/60	0.03306	0.496	1.32
June	16-30	15	1/65	0.03051	0.458	1.78
July	1-15	15	1/70	0.02834	0.425	2.21
July	15-31	16	1/80	0.02479	0.397	2.60
Aug.	1-15	15	1/80	0.02479	0.372	2.98
Aug.	16-31	16	1/85	0.02333	0.373	3.35
Sept.	1-15	15	1/100	0.01983	0.298	3.65
Sept.	16-30	15	1/150	0.01322	0.198	3.85
Oct.	1-15	15	1/200	0.00991	0.149	4.00

DELIVERY SCHEDULE "C"

April 1 – October 15, 4.0 Acre-Feet per Acre

<u>PERIOD</u>		<u>DUTY</u>		<u>DELIVERY</u>	
Date (1)	No. of Days (2)	CFS/Acres (3)	AF/Day (4)	AF/Period (5)	Accum AF (6)
April 1-15	15	1/160	0.01240	0.186	0.186
April 16-30	15	1/160	0.01240	0.186	0.186
May 1-10	10	1/125	0.01587	0.159	0.531
May 11-20	10	1/90	0.02204	0.220	0.751
May 21-31	11	1/80	0.02479	0.273	1.024
June 1-10	10	1/70	0.02834	0.283	1.307
June 11-20	10	1/70	0.02834	0.283	1.590
June 21-30	10	1/75	0.02645	0.265	1.855
July 1-10	10	1/75	0.02645	0.265	2.120
July 11-20	10	1/80	0.02479	0.248	2.368
July 21-31	11	1/80	0.02479	0.273	2.641
Aug. 1-15	15	1/80	0.02479	0.372	3.013
Aug. 16-31	16	1/85	0.02333	0.373	3.386
Sept. 1-15	15	1/100	0.01983	0.297	3.683
Sept. 16-30	15	1/150	0.01322	0.198	3.881
Oct. 1-15	15	1/250	0.00793	0.119	4.000

CERTIFICATE OF SERVICE

I hereby certify that a copy of foregoing MOTION OF STATE ENGINEER FOR ORDER OF DISTRIBUTION and the proposed ORDER OF DISTRIBUTION (prior to signature and entry) were served by mailing, first class postage prepaid, this 21st day of March, 2003, to the following:

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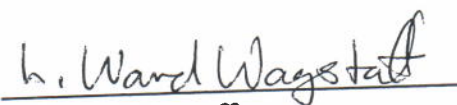
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